

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

No. 5:21-CV-0137-FL

360 VIRTUAL DRONE SERVICES LLC)
and MICHAEL JONES,)
)
Plaintiffs,)
v.)
)
ANDREW L. RITTER, in his official)
capacity as Executive Director of the North)
Carolina Board of Examiners for Engineers)
and Surveyors; and JOHN M. LOGSDON,)
JONATHAN S. CARE, DENNIS K.)
HOYLE, RICHARD M. BENTON, CARL)
M. ELLINGTON, JR., CEDRIC D.)
FAIRBANKS, BRENDA L. MOORE,)
CAROL SALLOUM, and ANDREW G.)
ZOUTWELLE, in their official capacities as)
members of the North Carolina Board of)
Examiners for Engineers and Surveyors,)
)
Defendants.)

**CERTIFICATE OF INITIAL ATTORNEYS' CONFERENCE
AND JOINT DISCOVERY PLAN**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Samuel Gedge and James Knight, representing Plaintiffs 360 Virtual Drone Services LLC and Michael Jones (Plaintiffs), and Douglas Hanna, representing Defendants Andrew L. Ritter, the Executive Director of the North Carolina Board of Examiners for Engineers and Surveyors, John M. Logsdon, Jonathan S. Care, Dennis K. Hoyle, Richard M. Benton, Carl M. Ellington, Jr., Cedric D. Fairbanks, Brenda L. Moore, Carol Salloum, and Andrew G. Zoutwelle, members of the North Carolina Board of Examiners for Engineers and Surveyors (Defendants), conferred on June 3, 2021, by telephone to

discuss the proper scope of and limitations on discovery. Based on that conference and subsequent communications, the parties submit the following report:

A. **Nature of the Case:** The parties have discussed the nature and complexity of the case.

Specifically, the position of the parties is as follows with respect to the following points:

1. **Subject matter jurisdiction:** The parties agree that the Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, and 2201-2202; 42 U.S.C. § 1983; and the First and Fourteenth Amendments to the U.S. Constitution.
2. **Most important factual or legal issues:** Plaintiff 360 Virtual Drone Services LLC (founded by co-plaintiff Michael Jones) was previously subject to an investigation by the North Carolina Board of Examiners for Engineers and Surveyors. That investigation concluded with the Board's warning 360 Virtual Drone Services that some of its services amounted to the unlicensed practice of surveying. 360 Virtual Drone Services and Michael Jones have now filed this lawsuit to declare that North Carolina's surveying law and the Board's enforcement policies violate the First Amendment (applicable to the states through the Fourteenth). That constitutional question is the central issue in this case, and the parties agree that this matter would appropriately fall within the Court's classification of "Routine" cases.
3. **A breakdown of damages sought:** Plaintiffs seek declaratory and injunctive relief (along with attorneys' fees and costs), but not damages.

B. Discovery Plan: The parties jointly propose to the Court the following discovery plan:

1. Scope of discovery: The parties anticipate needing discovery on the claims in Plaintiffs' Complaint, all defenses raised, and responses made by the Defendants.

Discovery may be obtained on any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case as described in Rule 26(b)(1) of the Federal Rules of Civil Procedure. The parties do not waive any objection that they may have to any specific discovery requests.

2. Phased or limited discovery: The parties believe that phased or limited fact discovery would not benefit either the Court or the parties.

3. Categories of discovery to be utilized: The parties propose to utilize the following categories of discovery under the following limitations:

a. Initial Disclosures: The parties agree to exchange the information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure no later than June 25, 2021.

b. Interrogatories: The parties agree to abide by the limitations of Rule 33 of the Federal Rules of Civil Procedure.

c. Requests for Production of Documents: The parties agree to abide by the limitations of Rule 34 of the Federal Rules of Civil Procedure.

d. Requests for Admission: The parties agree to abide by the limitations of Rule 36 of the Federal Rules of Civil Procedure.

e. Depositions: The parties agree to abide by the limitations of Rule 30 of the Federal Rules of Civil Procedure. See Paragraph (B)(6) below regarding anticipated 30(b)(6) depositions.

4. **Discovery of electronically stored information:** The parties do not currently anticipate any issues relating to disclosure or discovery of electronically stored information.
5. **Claims of privilege or protection as trial-preparation material:** Without waiving any privileges or protections that may arise, the parties do not currently anticipate any unusual issues relating to claims of privilege or protection as trial-preparation material.
6. **Rule 30(b)(6) depositions:** Plaintiffs anticipate deposing a representative or representatives of the North Carolina Board of Examiners for Engineers and Surveyors under Rule 30(b)(6). Defendants anticipate deposing Plaintiff 360 Virtual Drone Services LLC under Rule 30(b)(6) as well.
7. **Conclusion of discovery:** The parties propose that the date for conclusion of all discovery be February 25, 2022.
8. **Anticipated discovery problems:** The parties do not anticipate any particular discovery problems at this time.

C. **Other Proposed Deadlines:**

1. **Expert witness information:**
 - a. *Deadline for disclosure of Plaintiffs' expert(s) and expert report(s):*
October 15, 2021.
 - b. *Deadline for disclosure of Defendants' expert(s) and expert report(s):*
November 15, 2021.
 - c. *Deadline for disclosure of Plaintiffs' rebuttal expert(s) and rebuttal-expert report(s):* December 15, 2021.

2. **Joining additional parties:** The parties propose that the deadline for joining additional parties be sixty days after entry of the Court's case management order.
 3. **Amending pleadings:** The parties propose that the deadline for amending pleadings be thirty days after entry of the Court's case management order.
 4. **Filing of motions:** The parties propose that the deadline for filing all potentially dispositive motions (including motions for summary judgment) be March 25, 2022.
- D. **Settlement:** The parties believe that settlement is unlikely given the constitutional, non-damages nature of Plaintiffs' claims and request for relief. But the parties agree that counsel for each side will engage in good-faith informal discussions to determine whether settlement is possible prior to the expert-disclosure deadline as proposed in Paragraph (C)(1)(a) above. If the parties determine that a more structured format for settlement discussions would be beneficial, they will advise the Court promptly.
- E. **Magistrate Judge:** The parties do not consent to a magistrate judge's conducting all proceedings.
- F. **Pretrial Conference:** Neither party requests that a Rule 16(b) pretrial conference be scheduled prior to the entry of the Court's case management order.
- G. **Related Cases:** The parties are unaware of any case that is related to this one. The parties note, however, that a First Amendment lawsuit challenging North Carolina's engineering law was filed on June 9, 2021. *See Nutt v. Ritter*, No. 7:21-CV-00106-M (E.D.N.C.).
- H. **Other Scheduling Issues:** The parties are unaware of any scheduling issues affecting counsel or the parties at this time.

Dated: June 18, 2021.

/s/ Douglas W. Hanna
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Respectfully submitted,

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* *Special Appearance pursuant to Local Rule 83.1(e)*

/s/ David G. Guidry
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Local Civil Rule 83.1(d) Counsel for Plaintiffs

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2021, I filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Douglas W. Hanna (dhanna@ghslawfirm.com)

/s/ Samuel B. Gedge
Samuel B. Gedge*

** Special Appearance pursuant to Local Rule
83.1(e)*